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**U.S. District Court
DISTRICT OF ARIZONA (Phoenix Division)
CIVIL DOCKET FOR CASE #: 2:11-cv-02516-GMS
Internal Use Only**

Verco Decking Incorporated v. Consolidated Systems
Incorporated
Assigned to: Judge G Murray Snow
Cause: 35:271 Patent Infringement

Date Filed: 12/20/2011
Jury Demand: Plaintiff
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

Verco Decking Incorporated
an Arizona corporation





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LEAD ATTORNEY
ATTORNEY TO BE NOTICED


Patents
6,212,932
6,397,469

V.

Defendant

Consolidated Systems Incorporated
*a South Carolina corporation licensed to
transact business in Arizona*

Date Filed	#	Docket Text
12/20/2011	 <u>1</u>	COMPLAINT. Filing fee received: \$350.00, receipt number PHX 0970-6195110, filed by Verco Decking Incorporated (submitted by Marvin Glazer). (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Civil Cover Sheet)(REK) (Entered: 12/21/2011)
12/20/2011	 <u>2</u>	SUMMONS Submitted by Verco Decking Incorporated (submitted by Marvin Glazer). (REK) (Entered: 12/21/2011)
12/20/2011	 <u>3</u>	Corporate Disclosure Statement by Verco Decking Incorporated identifying Corporate Parent Nucor Corporation for Verco Decking Incorporated (submitted by Marvin Glazer). (REK) (Entered: 12/21/2011)
12/20/2011	 <u>4</u>	Filing fee paid, receipt number PHX 0970-6195110. This case has been assigned to the Honorable G. Murray Snow. All future pleadings or documents should bear the correct case number: CV 11-02516-PHX-GMS. Notice of Availability of Magistrate Judge to Exercise Jurisdiction form attached. (REK) (Entered: 12/21/2011)

12/21/2011	 <u>5</u>	Summons Issued as to Consolidated Systems Incorporated. (REK). *** IMPORTANT: When printing the summons, select "Document and stamps" or "Document and comments" for the seal to appear on the document. (Entered: 12/21/2011)
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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA
PHOENIX DIVISION

Verco Decking, Inc.,)
an Arizona corporation,)
Plaintiff,)

CIV NO. _____

vs.)

Consolidated Systems, Inc.,)
a South Carolina corporation licensed)
to transact business in Arizona,)
Defendant.)

**COMPLAINT FOR
PATENT INFRINGEMENT**

AND JURY DEMAND

Plaintiff VERCO DECKING, INC. ("Verco" or "Plaintiff") hereby files this Complaint for Patent Infringement against Defendant CONSOLIDATED SYSTEMS, INC. ("CSI" or "Defendant"), and alleges as follows:

PARTIES

1. Verco is a corporation organized and existing under the laws of Delaware, with its principal place of business at 4340 N. 42nd Avenue, Phoenix, Arizona 85019.

2. On information and belief, Defendant CSI is a South Carolina corporation with a place of business at 650 Rosewood Drive, Columbia, South Carolina 29202.

1 3. On information and belief, Defendant CSI is also registered to do business in
2 the State of Arizona with a designated statutory agent located at 2394 E. Camelback Road,
3 Phoenix, Arizona 85016, and with a place of business at 505 North 51st Ave., Phoenix,
4 Arizona 85043.

5
6 **JURISDICTION AND VENUE**

7 4. This is an action for patent infringement arising under the patent laws of the
8 United States, Title 35, United States Code.

9 5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and
10 1338(a).

11 6. This Court may exercise personal jurisdiction over Defendant based on its
12 contacts with this forum, including regularly and intentionally doing business here. CSI
13 directly or through intermediaries ships, distributes, offers for sale, sells and advertises
14 various products in this State and District, including on information and belief the products
15 accused of patent infringement and products used in the course of patent infringement. As
16 set forth herein, on information and belief, CSI has committed the tort of patent infringement,
17 and has contributed to and induced acts of infringement by others within this State and
18 District.

19 7. On information and belief, Defendant CSI maintains a manufacturing facility
20 for roll formed metal decking at 505 North 51st Ave., Phoenix, Arizona 85043, within this
21 State and District.

22 8. Defendant CSI resides within the District of Arizona for purposes of venue,
23 and venue is proper in this District pursuant to 28 U.S.C. § 1391(b), 1391(c), and 1400(b).

24
25 **COUNT I**

26 **INFRINGEMENT OF U.S. PATENT 6,212,932**

27 9. Plaintiff hereby realleges and incorporates by reference paragraphs 1-8 as if
28 fully set forth herein.

1 10. Plaintiff owns all of the rights and interests in United States Patent No.
2 6,212,932 ("the '932 patent") entitled "Pneumatic Shear for Forming Structural Louvers,"
3 including all rights to sue and collect for past, present or future infringement of the '932
4 patent. A true and accurate copy of the '932 patent is attached hereto as Exhibit A.

5 11. The '932 patent was duly and legally issued by the United States Patent and
6 Trademark Office on April 10, 2001. The '932 patent is presumed valid.

7 12. The '932 patent relates to a pneumatic tool for forming structural louvers, as
8 shown and described in Exhibit A.

9 13. On information and belief, CSI markets, distributes, offers to sell, and/or sells
10 pneumatic tools for forming structural louvers in a seam of steel decking, including
11 pneumatic tools for forming "ISL" side seam attachments in steel decking sold by CSI under
12 the brand name "Dek-Lok ISL System", which pneumatic tools embody the patented
13 apparatus claimed in the '932 patent (hereinafter, "the Accused Tools").

14 14. CSI has infringed and continues to infringe the '932 patent within the meaning
15 of 35 U.S.C. § 271 by, without Verco's authority, making, using, marketing, distributing,
16 selling, and/or offering for sale the Accused Tools in the United States.

17 15. Tools offered by Plaintiff that embody one or more claims of the '932 patent
18 are marked with a notice of the '932 patent in accordance with the provisions of 35 U.S.C. §
19 287.

20 16. CSI has had actual knowledge of the '932 patent since at least January 23,
21 2008, when the '932 patent was listed in a communication from the United States Patent and
22 Trademark Office to attorneys for CSI regarding the U.S. patent application that later issued
23 as U.S. Patent 7,353,584, which is assigned on its face to CSI.

24 17. On information and belief, CSI has knowledge that the Accused Tools are
25 especially made or adapted for use in a manner that infringes the '932 patent; that the
26 Accused Tools are not a staple article or commodity of commerce; and that the Accused
27 Tools are not suitable for substantial non-infringing use.

28 18. On information and belief, CSI intends for the Accused Tools to be used by

1 customers and/or other individuals to form seam attachments to secure pieces of steel
2 decking together.

3 19. On information and belief, customers of CSI have used the Accused Tools
4 supplied to them by CSI, in the manner intended by CSI, to directly infringe the '932 patent.

5 20. CSI is actively, intentionally, and/or knowingly inducing the direct
6 infringement of the '932 patent by others, including, but not limited to customers that use the
7 Accused Tools supplied by CSI to install steel decking.

8 21. CSI is actively, intentionally, and/or knowingly contributing to the direct
9 infringement of the '932 patent by others, including, but not limited to customers that use the
10 Accused Tools supplied by CSI to install steel decking.

11 22. On information and belief, CSI's infringement has been intentional and willful,
12 making this an exceptional case.

13 23. Plaintiff has been damaged by CSI's infringing conduct.

14 24. Plaintiff has been and will continue to be irreparably harmed by CSI's
15 infringement of the '932 patent unless injunctive relief is entered by the Court.

16
17 **COUNT II**

18 **INFRINGEMENT OF U.S. PATENT 6,397,469**

19 25. Plaintiff hereby realleges and incorporates by reference paragraphs 1-24 as if
20 fully set forth herein.

21 26. Plaintiff owns all of the rights and interests in United States Patent No.
22 6,397,469 ("the '469 patent"), entitled "Method for Securing Workpieces Together,"
23 including all rights to sue and collect for past, present or future infringement of the '469
24 patent. A true and accurate copy of the '469 patent is attached hereto as Exhibit B.

25 27. The '469 patent was duly and legally issued by the United States Patent and
26 Trademark Office on June 4, 2002. The '469 patent is presumed valid.

27 28. The '469 patent relates to a method of securing workpieces together, including
28 securing pieces of steel decking together through the use of a pneumatic tool, as shown and

1 described in Exhibit B.

2 29. On information and belief, CSI markets, distributes, offers to sell, and sells
3 various products, including tools for securing workpieces together, including pneumatic tools
4 for forming "ISL" side seam attachments in steel decking sold by CSI under the brand name
5 "Dek-Lok ISL System" (hereinafter, "the CSI-supplied Tools"); use of the CSI-supplied
6 Tools to secure together steel decking practices the patented method claimed in the '469
7 patent.

8 30. CSI has infringed and continues to infringe the '469 patent within the meaning
9 of 35 U.S.C. § 271 by, without Verco's authority, supplying the CSI-supplied Tools to
10 customers within the United States for securing workpieces together, including by forming
11 "ISL" side seam attachments in steel decking sold by CSI under the brand name "Dek-Lok
12 ISL System." When used by such customers in the manner intended by CSI, the CSI-
13 supplied Tools practice the patented methods claimed in the '469 patent.

14 31. CSI has had actual knowledge of the '469 patent since at least January 23,
15 2008, when the '469 patent was discussed at length in a communication from the United
16 States Patent and Trademark Office to attorneys for CSI regarding the U.S. patent application
17 that later issued as U.S. Patent 7,353,584, which is assigned on its face to CSI.

18 32. On information and belief, CSI has knowledge that the use of the CSI-supplied
19 Tools to secure together steel decking infringes the methods claimed in the '469 patent; that
20 the CSI-supplied Tools are not a staple article or commodity of commerce; and that the CSI-
21 supplied Tools are not suitable for substantial non-infringing use.

22 33. On information and belief, CSI publishes certifications, including ICC Report
23 ESR-1169, for the performance of its "Dek-Lok ISL System" steel decking when such steel
24 decking is secured together using the CSI-supplied Tools, in a manner that utilizes the
25 patented methods claimed in the '469 patent.

26 34. On information and belief, CSI intends for the CSI-supplied Tools to be used
27 by customers and/or other individuals to secure pieces of steel decking together in a manner
28 that infringes the '469 patent.

1 35. On information and belief, customers of CSI have used the CSI-supplied Tools
2 in the manner intended by CSI to directly infringe the '469 patent.

3 36. CSI is actively, intentionally, and/or knowingly inducing the direct
4 infringement of the '469 patent by others, including, but not limited to customers that use the
5 CSI-supplied Tools to secure together steel decking.

6 37. CSI is actively, intentionally, and/or knowingly contributing to the direct
7 infringement of the '469 patent by others, including, but not limited to customers that use the
8 CSI-supplied Tools to secure together steel decking.

9 38. On information and belief, CSI's infringement has been intentional and willful,
10 making this an exceptional case.

11 39. Plaintiff has been damaged by CSI's infringing conduct.

12 40. Plaintiff has been and will continue to be irreparably harmed by CSI's
13 infringement of the '469 patent unless injunctive relief is entered by the Court.

14
15 **WHEREFORE**, Plaintiff respectfully prays for:

16 (A) Judgment that CSI has infringed the '932 and '469 patents in violation of 35
17 U.S.C. § 271;

18 (B) An injunction against further infringement of the '932 and '469 patents by CSI,
19 its agents, servants, employees, officers, and all others controlled by them;

20 (C) An award to Plaintiff of such monetary damages to which it is entitled pursuant
21 to 35 U.S.C. § 284;

22 (D) Judgment that CSI's infringement of the '932 and '469 patents has been
23 willful, and that the present case is exceptional within the meaning of 35 U.S.C. §285;

24 (E) An award to Plaintiff of enhanced damages pursuant to 35 U.S.C. § 284;

25 (F) An award to Plaintiff of its costs, expenses, and fees, including reasonable
26 attorneys' fees, pursuant to 35 U.S.C. §§284 and 285;

27 (G) An award to Plaintiff of interest on the amount awarded as damages at the
28 maximum rate allowed by law; and

1 (H) Any such other and further relief as the Court deems just, equitable, and
2 proper.

3
4 **JURY TRIAL DEMAND**

5 Plaintiff respectfully requests that all issues so triable be tried by and before a jury.

6
7 Respectfully submitted this 20th day of December, 2011.

8 /s/Marvin A. Glazer

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26 **CERTIFICATE OF ELECTRONIC FILING/SERVICE**

27 I HEREBY CERTIFY that on December 20, 2011, counsel for Plaintiff electronically
28 filed the foregoing COMPLAINT FOR PATENT INFRINGEMENT, AND JURY
DEMAND with the Clerk of the Court, along with attached Exhibits A and B, by using the
Court's CM/ECF system.

s/Marvin A. Glazer

Marvin A. Glazer (AZ Bar No. 005885)